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P.O. Box 1450  
Alexandria, VA 22313-1450  
May 9, 2008

Date of Deposit  
Tadashi Horie, Reg. No. 40,437

Name of applicant, assignee or  
Registered Representative



Signature  
May 9, 2008

Date of Signature

Case No. 9683/259

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Adachi et al.

Serial No: 10/658,190

Filed: September 10, 2003

For: VIDEO ENCODING METHOD, VIDEO  
DECODING METHOD, VIDEO  
ENCODING APPARATUS, VIDEO  
DECODING APPARATUS, VIDEO  
ENCODING PROGRAM, AND VIDEO  
DECODING PROGRAM

Examiner: Yon Jung Couso

Group Art Unit: 2624

Conf. No.: 3245

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**PURSUANT TO 37 C.F.R. § 1.705(d)**

Mail Stop Patent Ext  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

U.S. Patent No. 7,346,216 issued on March 18, 2008. Pursuant to 35 U.S.C. § 154(b), the United States Patent and Trademark Office calculated a patent term

adjustment of 760 days. A copy of the issue notification for U.S. Patent No. 7,346,216 is included herewith as Exhibit A.

Applicant's Attorney believes that the patent term adjustment should be 1,220 days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(d). Please charge the petition fee pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached for this purpose.

The patent term adjustment for U.S. Patent No. 7,346,216 was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicant's Attorney believes that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for U.S. Patent No. 7,346,216 as described in detail below. Pursuant to 37 C.F.R. § 1.705(d), this request for reconsideration is being filed within two months of the issue date of the above-referenced patent. Note that U.S. Patent No. 7,346,216 is not subject to a terminal disclaimer.

**Period of Adjustment Pursuant to 37 C.F.R. § 1.703(b)**

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the three-year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a).

The present application was filed on September 10, 2003 as evidenced by the official filing receipt attached as Exhibit C. The three-year date determined pursuant to 37 C.F.R. § 1.703(b) is September 10, 2006. Under our interpretation of the three-year delay rule, all delay by the U.S. Patent Office beyond three years from the filing date should be added to the patent term adjustment unless there is delay on other grounds (U.S. Patent Office or Applicant delay) already occupying the same period of time.

U.S. Patent No. 7,346,216 issued on March 18, 2008, which is 555 days beyond the three-year date. However, there was also a delay by the U.S. Patent Office from the time of mailing a Restriction Requirement to the time that U.S. Patent No. 7,346,216 issued. This delay may be accounted for as the time between the mailing of the Restriction Requirement and the mailing of the Notice of Allowance, and the time between the mailing of the Notice of Allowance and the time the patent issued. The Restriction Requirement was mailed December 14, 2006 and the Notice of Allowance was mailed August 28, 2007. The time between the mailing of the Restriction Requirement and the mailing of the Notice of Allowance is 257 days. The time between the mailing of the Notice of Allowance and the time the patent issued was 203 days. Hence, the delay beyond the three-year date is properly accounted for as 460 days. Accordingly the total delay in the present application is 1,220 days.


### **Conclusion**

In conclusion, Applicant respectfully assert that the patent term adjustment determined by the U.S. Patent and Trademark Office for U.S. Patent No. 7,346,216 may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent

and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Applicant has calculated a processing fee in the amount of \$400 to be due under 37 C.F.R. § 1.18(t) in connection with the filing of this petition. Applicant has authorized charging the fee to a deposit account as indicated in the Transmittal accompanying this petition.

Respectfully submitted,



Tadashi Horie  
Registration No. 40,437  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

# **EXHIBIT A**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,190	03/18/2008	7346216	9683/259	3245

757 7590 02/27/2008  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610

## ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

### **Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)** (application filed on or after May 29, 2000)

The Patent Term Adjustment is 760 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Satoru Adachi, Yokohama-shi, JAPAN;  
Choong Seng Boon, Yokohama-shi, JAPAN;  
Sadaatsu Kato, Yokosuka-shi, JAPAN;  
Minoru Etoh, Yokohama-shi, JAPAN;  
Thiow Keng Tan, Jalan Sindor, SINGAPORE;

# **EXHIBIT B**



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10/658,190

## VIDEO ENCODING METHOD, VIDEO DECODING METHOD, VIDEO ENCODING APPARATUS, VIDEO DECODING APPARATUS, VIDEO ENCODING PROGRAM, AND VIDEO DECODING PROGRAM

Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Foreign Priority	Fees	Published Documents	Address & Attorney/Agent
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## Patent Term Adjustment

Filing or 371(c) Date:	09-10-2003	USPTO Delay (PTO) Delay (days):	764
Issue Date of Patent:	03-18-2008	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	50
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):	760
USPTO Adjustment (days):	46	<a href="#">Explanation Of Calculations</a>	

## Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
02-27-2008	PTA 36 Months		
03-18-2008	Patent Issue Date Used in PTA Calculation		
02-14-2008	Dispatch to FDC		
02-05-2008	Mail-Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
02-05-2008	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
02-05-2008	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
01-31-2008	Adjustment of PTA Calculation by PTO	50	
01-31-2008	Adjustment of PTA Calculation by PTO		
01-31-2008	Adjustment of PTA Calculation by PTO		4
01-31-2008	Adjustment of PTA Calculation by PTO		
11-27-2007	Petition Entered		↑
12-06-2007	Application Is Considered Ready for Issue		↑
11-27-2007	Issue Fee Payment Verified		↑
11-27-2007	Issue Fee Payment Received		↑
08-28-2007	Mail Notice of Allowance		↑
08-28-2007	Mail Examiner's Amendment		↑
08-25-2007	Notice of Allowance Data Verification Completed		↑
08-21-2007	Document Verification		↑
08-17-2007	Examiner's Amendment Communication		↑
07-11-2007	Date Forwarded to Examiner		↑
07-02-2007	Response after Non-Final Action		50
03-28-2007	Mail Notice of Restarted Response Period		↑
03-26-2007	Letter Restarting Period for Response (i.e. Letter re: References)		↑
03-20-2007	Examiner Interview Summary Record (PTOL - 413)		↑
02-13-2007	Mail Non-Final Rejection		↑
02-09-2007	Non-Final Rejection		
01-26-2007	Date Forwarded to Examiner		
01-22-2007	Response to Election / Restriction Filed		
01-22-2007	Request for Extension of Time - Granted		
12-14-2006	Mail Restriction Requirement	764	
12-11-2006	Requirement for Restriction / Election	↑	
12-10-2003	Information Disclosure Statement considered	↑	
12-09-2004	Information Disclosure Statement considered	↑	
03-17-2005	Information Disclosure Statement considered	↑	
09-20-2005	Information Disclosure Statement considered	↑	



10-28-2005	Information Disclosure Statement considered	↑
10-10-2006	Case Docketed to Examiner in GAU	↑
06-12-2006	Correspondence Address Change	↑
06-12-2006	Change in Power of Attorney (May Include Associate POA)	↑
04-04-2006	Case Docketed to Examiner in GAU	↑
03-21-2006	Case Docketed to Examiner in GAU	↑
10-28-2005	Information Disclosure Statement (IDS) Filed	↑
10-28-2005	Information Disclosure Statement (IDS) Filed	↑
09-20-2005	Reference capture on IDS	↑
09-20-2005	Information Disclosure Statement (IDS) Filed	↑
09-20-2005	Information Disclosure Statement (IDS) Filed	↑
09-22-2005	IFW TSS Processing by Tech Center Complete	↑
09-22-2005	Case Docketed to Examiner in GAU	↑
09-10-2003	Request for Foreign Priority (Priority Papers May Be Included)	↑
03-17-2005	Information Disclosure Statement (IDS) Filed	↑
03-17-2005	Information Disclosure Statement (IDS) Filed	↑
12-09-2004	Information Disclosure Statement (IDS) Filed	↑
12-09-2004	Information Disclosure Statement (IDS) Filed	↑
12-10-2003	Information Disclosure Statement (IDS) Filed	↑
12-10-2003	Information Disclosure Statement (IDS) Filed	↑
12-12-2003	Application Return from OIPE	↑
12-12-2003	Application Return TO OIPE	↑
12-11-2003	Application Dispatched from OIPE	↑
12-12-2003	Application Is Now Complete	↑
11-23-2003	Cleared by OIPE CSR	↑
10-12-2003	IFW Scan & PACR Auto Security Review	↑
09-10-2003	Initial Exam Team nn	↑

*If you need help:*

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [EBC@uspto.gov](mailto:EBC@uspto.gov) for specific questions about Patent Application Information Retrieval (PAIR).
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# **EXHIBIT C**



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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/658,190	09/10/2003	2624	1506	242555US <sup>g</sup>	11	20	12

22850

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
 1940 DUKE STREET  
 ALEXANDRIA, VA 22314

CONFIRMATION NO. 3245

## FILING RECEIPT



\*OC000000011479051\*

Date Mailed: 12/12/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Satoru Adachi, Yokohama-shi, JAPAN;  
 Choong Seng Boon, Yokohama-shi, JAPAN;  
 Sadaatsu Kato, Yokosuka-shi, JAPAN;  
 Minoru Etoh, Yokohama-shi, JAPAN;  
 Thiow Keng Tan, Jalan Sindor, SINGAPORE;

RECEIVED: 12-15-03  
 OBLON, SPIVAK, McCLELLAND  
 MAIER & NEUSTADT, P.C.  
**DOCKETING DEPT.**

Initials/Date Docketed: MX / 12-16-03  
 Type of Resp(s): \_\_\_\_\_  
 Due Date(s): \_\_\_\_\_

## Assignment For Published Patent Application

NTT DoCoMo, Inc., Tokyo, JAPAN;

## Domestic Priority data as claimed by applicant

## Foreign Applications

JAPAN 2002-299512 10/11/2002  
 JAPAN 2003-190567 07/02/2003

If Required, Foreign Filing License Granted: 12/11/2003

Projected Publication Date: 04/15/2004

Non-Publication Request: No

Early Publication Request: No

Title

Video encoding method, video decoding method, video encoding apparatus, video decoding apparatus, video encoding program, and video decoding program

Preliminary Class

382

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Title 35, United States Code, Section 184  
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